

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Nguyen, et al.
Appl. No.: 10/642,937
Conf. No.: 4289
Filed: August 18, 2003
Title: TOURNAMENT GAME SYSTEM AND METHOD OF USING A
TOURNAMENT GAME CARD
Art Unit: 3718
Examiner: Jasson H. Yoo
Docket No.: 3718611-06135

Mail Stop OFFICE OF PETITIONS / OPLA
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)**

Sir:

Applicant hereby petitions for reconsideration of the Patent Term Adjustment accorded the above-referenced application at time of allowance. The Notice of Allowance and Determination of Patent Term Adjustment under 35 U.S.C. §154(b), mailed April 1, 2011, states that the Total PTA is 1116 days. That is, USPTO Delay days of 1260, and Applicant Delay days of 144. The USPTO Delay days of 1260 appears to be overstated and the Applicant Delay of 144 days appears to be correct, resulting in the Total PTA being longer than appropriate.

Applicant respectfully requests a review of the prosecution file history with attention to the January 9, 2007 mailing of a Restriction Requirement.

STATEMENT OF FACTS

The PAIR Transaction History appears to incorrectly reflect a USPTO Delay of 1254 days associated with the mailing of a Non-Final Rejection on March 25, 2008.

The USPTO mailed a Restriction Requirement on January 9, 2007. A written Restriction Requirement is considered an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, a written Restriction Requirement is a notification under 35 U.S.C. 132.

Under §1.702(a)(1), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to: (1) mail a notification under 35 U.S.C. 132 ... not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). Therefore, in the present case, there should be 813 USPTO Delay Days associated with the mailing of the written Restriction Requirement on January 9, 2007.

The PTA Determination at Allowance did not, however, account for the mailing of this Restriction Requirement as a notification under 35 U.S.C. 132. Rather, the PTA Determination at Allowance incorrectly accounted for the mailing of the Non-Final Rejection on March 25, 2008 as a notification under 35 U.S.C. 132.

REMARKS

In consideration of the events described above, Applicant suggests the Total PTA calculation of 1116 day appears to be overstated as of the allowance date. Applicant respectfully requests reconsideration of the patent term adjustment in the following manner.

- 1) USPTO Delay Days should be decreased from 1260 to 819 to reflect a decrease of the 441 USPTO Delay Days associated with the mailing of the Restriction Requirement on January 9, 2007 as a notification under 35 U.S.C. 132.
- 2) Total PTA Days should be decreased from 1116 days to 675 days (819 Non-Overlapping USPTO Delay Days–144 APPL Delay Days).

This patent application is subject to Terminal Disclaimers over:

- (i) U.S. Patent No. 7,798,901 (which includes a PTA of 1618 days),
and
- (ii) any U.S. Patent that may issue from pending U.S. Patent Application No. 10/642,934.

Applicant respectfully submits that there do not appear to be any additional circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application other than the one discussed above.

Pursuant to 37 CFR § 1.18(e), the fee of \$200 is submitted herewith. To the extent that any additional fees are due and owing for this Petition, the Commissioner is hereby authorized to charge them to Deposit Account 02-1818.

Thank you for your consideration.

Respectfully submitted,

K&L Gates LLP

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Dated: May 19, 2011